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ECONOMIC DEFENSE POLICY REVIEW

Staff Study No. 7
Draft of June 6, 1955

Uniformity of Participation in Free World Controls

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incorporated
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ECONOMIC DEFENSE POLICY REVIEW
Question No. 2(b)*

Staff Study No. 7
(MDAC Draft,
June 6, 1955)

Must participation in the Free World controls be generally uniform, or can special latitude be allowed one or more countries under special circumstances?

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A. "Minimum uniform participation." It is the basic concept of the multi-lateral control system operated through the CG/COCOM/CHINCOM structure that strategic exports to the Soviet bloc can be effectively limited only by international agreement of such nature as to preclude frustration by one or more Free World countries of controls imposed by one or more others. Under this concept, participating countries are free to exercise more stringent controls than are agreed internationally, but not less stringent controls. Actual practice, however, does not always conform with this concept of "minimum uniform participation."

B. Special latitude among PC's.

1. The CG/COCOM/CHINCOM system provides for exceptions to the agreed rules, under agreed principles, procedures, ^{and} criteria applicable to all participants. What we are concerned with here is action beyond the scope or intent of the agreements governing exceptions, and involving practices or arrangements extending over a period of some duration or of a continuing nature.

* Formerly 2(c). Following part of original question has been omitted: "(i.e., Ceylon re rubber, Japan vis-a-vis Communist China, Germany re interzonal trade, etc.)."

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2. a. The notable examples of PC's exercising special latitude have been West Germany and Portugal.

(1) West Germany.

(a) West Germany has exercised special latitude in terms of exports to Soviet-occupied East Germany in these respects:

(i) Items under quantitative control have been exported to East Germany without reference to global quotas or to control procedures established by COCOM.

(ii) West Germany has not supplied statistics to COCOM concerning the delivery of strategic commodities in interzonal trade and does not notify nor does it consult COCOM with respect to interzonal trade agreements.

(b) The West Germans have defended this special latitude on the political grounds that East Germany should be regarded as part of Germany. It follows that the West Germans feel that they must consider interzonal trade not international but internal trade, and look at the East German economy in terms of eventual reintegration with their own. However, principally under U.S. prodding, West Germany is reexamining its COCOM position on interzonal trade, and has assured the U.S. that she will apply the International Lists to East Germany and intends to live up to the spirit of COCOM agreements.

(2) Portugal. The Portuguese government permits exports from and/or through Macao of China-embargoed goods of types and in quantities inconsistent with CHINCOM policies and procedures regarding exceptions for Communist China. The Portuguese argue that discontinuance of current practice would cause a real military threat to Macao by the Chinese Communists or refusal by the Chinese Communists to ship to Macao the goods on which Macao's existence depends.

b. Consideration might well also be given, in this fundamental review of our economic defense program, to the possibility (perhaps real, perhaps

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future
academic), of the ~~exercise of special latitude~~ by Japan in terms of exports to Communist China. Japan regards more trade with Communist China as economically necessary and also as politically desirable in order to vitiate the effects of Communist or Communist-type political and propaganda offensives against the orientation of the Japanese government toward the Western world.

C. Non-PC's. Our question here encompasses not only the PC's but all Free World countries.

1. By and large, non-PC's that receive U.S. aid cooperate to the degree that they are in practical terms participants in the multilateral system. Such cooperation is generally assured by the fact that Titles I and II of the Battle Act are administered in such a way as to make controls agreed upon in COCOM standards of effective cooperation under the Act.

2. On behalf of COCOM, as well as in its own interests, the U.S., often in concert with the U.K. and France, attempts to persuade non-PC's that do not receive U.S. aid to exercise controls parallel to those agreed upon in COCOM. Title III of the Battle Act, in fact, obligates the U.S. to do so, in that it requires the U.S. to invite non-aid recipients to adopt controls corresponding to those asked of aid-recipients, and those asked of aid-recipients are, by and large, those agreed upon in COCOM. In consequence, although non-PC's that do not receive U.S. aid operate with broader latitude than do PC's or than do non-PC's that receive U.S. aid, in the sense that the controls of non-aid-recipient non-PC's generally permit greater flexibility, in practice non-aid-recipient non-PC's generally do not seriously undermine, or take advantage of, the controls to which other countries have agreed. It is important, however,

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to note the ways in which the control arrangements and systems of non-aid-recipient non-PC's differ from those of other countries. In terms of this discussion, the notable non-aid-recipient non-PC's have been Sweden, Switzerland, Austria, and Finland. (Note separate treatment of Ceylon, p. 6.)

a. Sweden and Switzerland, as major "neutrals" and non-aid-recipients, are careful to avoid identification with any activity directed against the Soviet bloc. Nevertheless, from the inception of COCOM until the present time, both countries have cooperated, on a most informal and confidential basis, by effecting restrictions safeguarding against frustration of COCOM controls. Early in 1955, however, Switzerland informed the U.S. that she would hereafter restrict her exports only to the level of a base period, i.e., to a "normal" pattern, so as to refrain from taking unfairly traditional business of the PC's. Sweden's cooperation remains unchanged, the only problem having been exceptions for COCOM-embargoed bearings, which have not in fact involved greater latitude than have bearings exceptions for Italy, a COCOM member. With respect to Switzerland, it is not yet clear that her "return to normalcy" will in fact result in a substantially greater volume of strategic exports than there has been.

b. The recent treaty restoring Austria to the sovereign status she had prior to World War II places Austria in a formal position of neutrality akin to that of Switzerland and Sweden insofar as relations with both the West and the Soviet world are concerned. One of the articles in the treaty provides specifically that Austria will not show preferential consideration to any country or countries in the conduct of her trade relations. Moreover, under

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a USSR-Austrian bilateral agreement relating to the return of Soviet-controlled properties to Austria, the latter is obligated to supply to the USSR \$150 million of goods over a six-year period and a million tons of crude oil annually for ten years. The list of goods requested by the USSR contains a number of embargoed commodities. Nevertheless, Austria has assured the U.S. that she will endeavor to cooperate with COCOM/CHINCOM controls, working through the U. S. Embassy in Vienna as before, and ~~it appears probable~~ *there is reason to believe* that actual deliveries of strategic goods from Austria to Soviet bloc destinations will be ~~substantially~~ *substantially* smaller than were deliveries from Austrian plants under Soviet control.

Austria to receive new aid??
c. The overriding U.S. policy objective insofar as Finland is concerned is to maintain Finland as a free and independent country. Thus, recognizing Finland's difficult geopolitical position and reliance on trade with the USSR, the U.S. refrains from urging Finland to adopt measures directed against the Soviet bloc that may cause significant economic harm or create significant political or economic danger to Finland. Furthermore, more rigorous U.S. action vis-a-vis Finland on the trade control front would be strongly resisted by the Finns. In general, therefore, U.S. relationships with Finland in the multilateral trade control field do not go beyond transmitting Battle Act Lists to the Finns and keeping them generally aware of developments in the multilateral trade control field, suggesting such Finnish cooperation in trade controls as seems feasible without incurring undue risk for Finland. The strategic items involved in Finnish "special latitude" exports to the Soviet bloc are principally ships (including tankers), copper, and some types of electrical and other machinery. Generally speaking, the quantities involved are not so large as to cause very

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serious concern in terms of frustration of COCOM controls, or of contribution to the Soviet bloc war potential. With respect to ships and shipping, however, the U. S. has considered exports significant enough to warrant vigorous approaches to the Finns.

d. Thus, we see that in the cases of Sweden and Switzerland, the basic defense of special latitude is their neutral position and the fact that their people expect them to permit exports in a way consistent with the neutral positions of their governments. Economic pressures, undeniably important as they are, are not so serious that they could not be surmounted were it not for the political atmospheres and courses of these countries. The Austrian and Finnish positions with respect to Western trade controls are necessary consequences of their basic relationship with the USSR.

3. a. There is one country, Ceylon, to which U.S. aid has not been extended because of inadequate cooperation under the Battle Act. Although avowedly anti-Communist, as strongly reflected at the recent Bandung Conference, in 1952 Ceylon signed a five-year contract to ship 50,000 tons of rubber to China annually in return for 270,000 tons of rice annually. Because the major rubber-producing countries embargo rubber to China under the U. N. Resolution, Ceylon has been considered ineligible for aid, even though in all other regards she has observed strategic trade control principles. Ceylon is not a member of the U. N., having been blackballed by the Soviet Union, but this has not, in the eyes of the U.S., modified the requirements of the Battle Act in terms of the problem of extending aid to Ceylon.

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D. Injurious effects of special latitude. The conditions under which special latitude has arisen and the arguments offered in defense or justification of special latitude have been described above. The injurious effects of special latitude may be summarized as follows: First, and most obvious, one injurious effect of special latitude such as that described or, in the case of Japan, hypothesized, above, is that it mitigates, and has the potential of frustrating, the effects of various controls exercised by other countries. Second, the existence of areas of special latitude makes it more difficult to negotiate the adoption or maintenance of strict controls on the part of other countries. Third, the exercise of special latitude by any country may lead others to desire corresponding latitude with respect to certain commodities or destinations. Fourth, the exercise of special latitude connotes, or may by other countries be construed to connote, a more relaxed assessment of the importance of security trade controls than the system is founded upon and may therefore lead to a general diminution of interest in the control system, or, fifth, could lead to a more relaxed posture vis-a-vis the European bloc and/or Communist China in other fields as well.

E. Criteria for special latitude? Special latitude seems inherently disruptive to a multilateral control system, but some attention might conceivably be given to the possibility of developing agreed criteria, or agreeing on special circumstances, under which individual PC's would be free to exercise special latitude. Difficulties so serious as to make the attempt fruitless would, however,

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be encountered. In the first place, the circumstances or considerations involved do not lend themselves to measurement or clear definition, falling as they do in the realm of long-range political, economic, and security problems. Secondly (and partly for the above reason), multilateral agreement on criteria could probably be reached only under terms so broad as to enable any government to make a case for special latitude should it desire to do so.

A practical consideration for the Executive Branch of the U.S. Government is that the Battle Act is predicated on uniform cooperation, and to achieve revision of the Act in such a way as to recognize special latitude would be a formidable, perhaps impossible, task. Under the Battle Act (Title I), the President may direct the continuation of aid even in the event of "knowingly permitted" shipment by a foreign country of items included on the Battle Act embargo list (unless the country knowingly permits the shipment of arms, ammunition, and implements of war, i.e. Title I, Category A goods) on the grounds that termination of aid would clearly be detrimental to U.S. security interests, but this provision was intended to allow for over-all consideration of U.S. security interests after the fact of shipment; it was by no means intended to

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allow for U.S. formulation, prior to shipments, of conditions under which aid would be continued despite non-compliance with the requirements of the Act. The Battle Act provides, with respect to non-embargoed items that should be controlled (Title II), that aid should be terminated in the event of Presidential determination that a foreign country is not "effectively cooperating" or is not providing the information on the basis of which the effectiveness of cooperation can be evaluated. Although the President appears to be free to establish varying standards of effective cooperation, utilization of the Act to achieve adequate control of strategic goods other than those that are listed for embargo would become most difficult were the U.S. to attempt to establish, or to participate in the establishment of, different standards of effective cooperation for different situations, because of the difficulty, noted above, of arriving at anything resembling precise criteria for special latitude. Moreover, we believe that the Act, mainly for this reason, envisioned uniform rather than varying standards. On the other hand, the President is left free to determine on a case-by-case basis whether cooperation is or is not adequate for the continuation of aid. In our opinion, such discretion is necessary, especially in the absence of any provision, with respect to strategic but non-embargoed goods, ^{President} enabling the/to direct the continuation of aid on the grounds that to terminate aid would clearly be detrimental to U.S. security interests.

F. Rebuilding control system on special latitude. From time to time some thought has been given to the question whether it would be possible to rebuild the control system on the basis of, or largely on the basis of, special arrangements for each country, e.g. allocating certain Soviet bloc markets completely

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or predominantly to certain Free World countries, or, rather than distributing COCOM quotas among the PC's, assigning each global quota to that COCOM country which most warrants it on the basis of its historical production and export pattern. The possible advantages conceived of for such a system would be that it would, by preventing competition among PC's for Soviet bloc business, reduce the flow of strategic goods to the Soviet bloc. Always, however, this possibility has been discarded at an early stage of consideration on the grounds that, aside from the difficulty which would be found in erecting such a system, it would create or accentuate economic rigidities in Free World economies, and would engender excessive reliance on imports from the Soviet bloc, in which situations the Soviet bloc could easily cause serious disturbance to Free World economies.

G. Conclusions. The pragmatic answer to our question would seem to be that special latitude can "be allowed" under special circumstances because it has existed in certain situations without critical injury or danger to the objectives and philosophy of the multilateral control system. Such exercise of special latitude, however, has clearly reduced the scope and effectiveness of the system.

A further question requires consideration: whether special latitude should "be allowed". In answering this question, we interpret "be allowed" to mean "be condoned" in order to avoid having to answer the question what kind of action "not allowing" may involve, which is the subject of another Staff Study (that on inducements and pressures).

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Our general answer to this question will probably be clearest if we first offer some brief comments on the cases of special latitude cited above:

1. In the case of West Germany, as we have seen, the basic motivation is political. In the U.S. view the desirability of seeing West Germany in a position of participation in Western world leadership decidedly overrides the political importance of having West Germany seek to maintain a facade of a single Germany in terms of the ultimate objective of unification or in terms of alleviating domestic political pressures in West Germany. Therefore we believe the U.S. should work as actively as possible without jeopardizing good relationships with Germany to eliminate West Germany's exercise of special latitude.

2. With respect to Portugal, although we doubt the possibility of economic or military retaliation by China if Macao shipments cease, no objective answer to the question whether the Communist Chinese would retaliate -- economically or militarily -- can be given, and the Portuguese may very well be right. Secondly, goods moving from or through Macao to Communist China, when considered in relationship to the goods denied Communist China by the Free World controls, do not constitute a serious danger to Free World security. Therefore, although we should continue our attempts to eliminate Portuguese special latitude, our efforts in this direction should not be strenuous ones unless the latitude sought becomes unreasonably great or the psychological danger which Portuguese special latitude represents to maintenance of strict Free World controls to China becomes acute and a high-level decision is made that the maintenance of such controls overrides all other factors.

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3. With respect to the hypothetical possibility of Japanese special latitude in terms of exports to Communist China, the situation is different from that which involves Macao. Japan is a large and industrialized country which, although desperately hungry for expanded trade everywhere, does not depend exclusively on trade with Communist China for its existence as does the small unindustrialized Macao. More importantly, any Japanese special latitude which involved a large flow of strategic goods to Communist China would not by itself solve Japan's economic problems. It would make a substantial contribution to Chinese war potential and would modify out of all recognition the posture the U.S. wishes to see the Free World maintain with respect to Communist China as an unrepentant aggressor and a continuing threat to the peace and stability of the Far East. While it is not certain that Japan desires or would press for such special latitude, she is highly sensitive toward what she regards as discrimination against her in the implementation of international controls, of which the COCOM-CHINCOM differential is one aspect. If Japan is assured that her routine, innocuous exception requests are handled with the same sympathetic consideration as those of other countries, critical pressures for a relaxation of the CHINCOM controls to the COCOM levels may be postponed, at least for a time.

4. With respect to Sweden, Switzerland, Austria, and Finland, it would seem that the U.S. has every reason to hope for, but little right to demand (although, in the case of Switzerland, some right to expect), more effective cooperation than we are now receiving, and that the prospect of achieving more effective cooperation lies more in the field of offering inducements than in pressures or in simple persuasion on the basis of arguments used time and time

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again. Should the U.S. move in the direction of favoring a "neutral bloc", a high-level decision would have to be made as to whether and to what extent strategic exports by neutrals to the Soviet bloc should be considered simply one of the inevitable costs of such a bloc, taking into account also the effect of such exports on maintenance of the existing multilateral control system.

5. It should be our ultimate objective to maintain the Free World embargo of strategic goods to Communist China. This effort extends to Ceylon, as to all sources. However, our immediate course of action toward that goal should be conditioned by these considerations:

a. Rubber is recognized by the COCOM countries as only of "surveillance" importance (International List III) in terms of exports to the Soviet bloc in Europe.

b. Rubber is on the Title II List of the Battle Act rather than the Title I List, so that, legally, adequate cooperation even in terms of exports to Communist China need not require embargo.

Thus, our general answer to the question whether special latitude should be condoned is that special latitude can never be condoned in terms of the U.S. concept of the objectives of the control system, but that there are circumstances in which the U.S. must accept or even concur in action that is injurious to the control system on the basis of economic or political considerations overriding the actual or potential injury to the control system. We are working, even in the CG structure, under an informal system of cooperation, with nations whose attitudes and problems differ from our own and also from each other's. In order to make the control system as effective as possible, it should constantly be our

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objective to eliminate special latitude, but our action toward this objective, or whether we take action toward this objective at any given time, should be decided on an ad hoc basis after full evaluation of such considerations as the nature and intensity of resistance of the country concerned, the extent to which other countries are willing to join us in opposing special latitude, and the economic and political facts, implications, and exigencies of the situation.

We can reasonably expect more of PC's and of aid-recipient non-PC's than of non-aid-recipient non-PC's. With respect to the latter, we and all other COCOM nations have a reason to press for cooperative action, but we must, at the same time, recognize their different status.

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